

REMARKS

Claims 1, 3-18, 20-35, and 37-64 were pending and stand rejected. No claims are amended.

Applicants' representatives thank the Examiner for the interview conducted on June 15, 2010. Pending claims and the cited references were discussed during the interview. An agreement was reached that the pending claims without further amendments would overcome the current rejections.

Claims 1, 3-18, 20-35 and 37-64 were rejected under 35 USC §103(a) as being unpatentable over Naito et al. (U.S. Patent No. 6,690,732) ("Naito") in view of Sugahara (U.S. Patent No. 5,404,174) ("Sugahara"). Claims 15, 32, 49, 56 and 59-64 were rejected under 35 USC §103(a) as being unpatentable over Naito in view of Sugahara and in further view of Shapiro (U.S. Patent No. 5,321,776) ("Shapiro").

Agreement was reached during the June 15, 2010 interview that the pending claims, without further amendments, would overcome the rejections. As discussed during the interview, Sugahara does not disclose or suggest "determining whether the image represents a scene change based upon a distribution of macroblock types of the macroblocks and the frame type of the image" as claimed. Rather, Sugahara determines a change between two frames based on an "activity measure", which is ratio of the difference between the sum of the absolute values of the pixels for the two frames to the total of the summed absolute values. See Sugahara, equation (1), column 8, lines 20-31. Nowhere does Sugahara even mention using macroblocks to make

the scene change determination.¹ Therefore, Applicants request that the Examiner withdraw the § 103 rejections.

Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully submitted,

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¹ In the rejections of claims 6, 16 and 17, the Examiner takes official notice of certain claimed features. Applicants' disagree with, and traverse, the Examiner's use of official notice in these circumstances. "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." MPEP 2144.03. In particular, Official Notice is improper where the facts are "not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art." *Id.* The details of video coding methods are certainly a type of "technical fact" in an "esoteric technology" that makes official notice of same improper. Further, other than the blanket statement of official notice, the Examiner has not provided "specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." *Id.* The Examiner is thus respectfully requested to provide either an evidentiary and documentary basis, such as an affidavit or declaration setting forth specific factual statements and explanation to support the finding. *Id.*